

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>v.</b>	)	<b>No. 3:08-CR-142</b>
	)	<b>Judges Phillips/Shirley</b>
<b>DAVID C. KERNELL,</b>	)	
<b>a/k/a "rubico,"</b>	)	
<b>a/k/a "rubico10,"</b>	)	
	)	
<b>Defendant.</b>	)	

**SUPPLEMENT TO OPPOSITION TO DEFENDANT’S MOTION TO SUPPRESS**

The United States of America, by and through James R. Dedrick, United States Attorney for the Eastern District of Tennessee, respectfully files this supplemental brief under Local Rule 7.1(d).

The United States brings two cases to the Court’s attention: *United States v. Brewer*, No. 08-3079, --- F.3d ----, 2009 WL 4841868 (8th Cir. Dec. 17, 2009) and *United States v. Mutschelknaus*, No. 09-1106, --- F.3d ----, 2010 WL 6101 (8th Cir. Jan. 4, 2010). Both cases support the argument made by the United States in its Opposition that “[s]o long as investigators physically enter premises and seize the computer during the ten-day period, the subsequent forensic examination can occur after the ten-day period.” (Doc. 72 at 7; see *id.* at 7-10).

Additionally, in *Mutschelknaus*, the Eighth Circuit affirmed a district court opinion cited on page 7 of that Opposition.

Respectfully submitted this 11th day of January, 2010.

JAMES R. DEDRICK  
United States Attorney

*s/ D. Gregory Weddle*  
*s/ Mark L. Krotoski*  
*s/ Josh Goldfoot*  
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#### **CERTIFICATE OF SERVICE**

I hereby certify that on January 11, 2010, a copy of the foregoing SUPPLEMENT TO OPPOSITION TO DEFENDANT'S MOTION TO SUPPRESS was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this filing through the Court's electronic filing system.

*s/ D. Gregory Weddle*  
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D. Gregory Weddle  
Assistant United States Attorney